

# FACTSHEET

## *Plant Protection & Quarantine*

United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

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## Questions and Answers: Interim Rule on Solid Wood Packing Material From China

### **Q. What wood-boring pests have been introduced into the United States and how?**

A: The Animal and Plant Health Inspection Service (APHIS) Plant Protection and Quarantine (PPQ) unit recently completed a plant pest risk assessment that focuses on three taxa and one beetle intercepted on solid wood packing material (SWPM) from China. The assessment provides scientific references and details on the biology of *Cerresium* spp., *Monochamus* spp., *Hesperophanes* spp., and the Asian longhorned beetle (*Anoplophora glabripennis*), as well as qualitative characterizations of the biological consequences and likelihood of introduction.

Additionally, in six cases (three in Illinois and three in New York) the Asian longhorned beetle has exited the SWPM and established itself in the environment. This destructive beetle kills healthy hardwood trees. It has many hosts but so far has been found predominantly in maples. There is no known treatment for trees infested with the beetle; they must be removed and destroyed. These outbreaks have been traced back to SWPM imported from China.

### **Q: Why does SWPM pose a risk to the United States?**

A: SWPM poses a number of plant pest risks. APHIS has recently found numerous exotic plant pests in SWPM imported from China, including extremely destructive wood-boring pests. SWPM has carried the pests through numerous States, where they were detected in warehouses prior to being introduced into

the environment. SWPM is often constructed from raw wood shortly before the packing material is used, often includes bark on some surfaces, and is often made from low-quality wood that sometimes is of low quality solely due to pest damage. These factors all mean that SWPM presents a high risk of spreading wood pests that exist in the areas where the SWPM was constructed.

Additionally, in transit SWPM comes into close contact with the commodities packed with it (including wood products). Pests are very likely to move from SWPM to these commodities. After commodities arrive in the United States, pests from the SWPM have many opportunities to escape and become established, especially since the SWPM associated with commodities can move long distances within the country, is reused frequently, and is often stored outdoors at ports and warehouses when not in use.

### **Q: What is APHIS doing right now to protect the United States from exotic wood-boring insects?**

A: APHIS has increased inspections of Chinese-origin cargo at all ports of entry.

### **Q: What action is APHIS taking to reduce the risk posed by SWPM from China?**

A: The U.S. Department of Agriculture (USDA) issued an interim rule on September 18, 1998, requiring all SWPM from China to be treated with preservatives, heat-treated, or fumigated prior to arrival in the United States. All shipments must carry certification from the government of China (see appendix 1) stating that the SWPM has been treated. If a shipment contains no SWPM, a statement of that fact must appear on the export documentation (bill of lading, invoice, ship's manifest, etc.). The statement of no SWPM comes from the exporter and is not a government-issued document.

### **Q: What specific treatments is APHIS requiring for SWPM from China?**

A: Currently, SWPM from all countries must be free of bark and apparently free of live plant pests.

Because SWPM from China has proven to be a prime pathway for exotic wood-boring pests, APHIS is amending the regulations to require that all SWPM imported into the United States from China be heat treated, fumigated, or treated with preservatives prior to departure from China. APHIS will also require that each shipment from China that contains SWPM be accompanied by a certificate, issued by the national government of China, stating that the SWPM has been treated.

Shipments from China that do not employ SWPM must be accompanied by an exporter statement confirming that the shipment contains no SWPM. The exporter statement is a written declaration by the exporter, accompanying a shipment at the time of importation, declaring the nature of the shipment and that the shipment contains no SWPM. This can appear on the bill of lading, invoice, etc.

Because the certificate requirement may slow clearance of shipments at U.S. ports while inspectors match certificates with the associated SWPM, APHIS is also providing exporters of SWPM from China with the option of having each article of SWPM that has been treated marked at the treatment facility with a stamp or weatherproof label that reads "CHINA TREATED." This marking, while not required, may help to expedite release of shipments at the port of first arrival. This type of marking, however, is not a substitute for the required certificate.

Heat treatment, fumigation, or treatment with preservatives may be performed in accordance with the treatment schedules authorized for SWPM in the regulations or in the *PPQ Treatment Manual* (see appendix 2). It is anticipated that most treatments conducted to meet the regulatory requirements will employ methyl bromide fumigation, although some other fumigants such as phosphene, or a number of preservatives, may be employed. Preservatives in common use include arsenic, copper sulfate, creosote, and copper-8-quinolinate.

**Q: Will there be a time limit for treatment of SWPM?**

A: APHIS is not establishing a time limit for treatment of SWPM; i.e., SWPM will not be required to be treated within a certain number of days prior to embarking for the United States. Such a requirement would make it far more difficult for exporters to schedule treatment of SWPM and conduct treatments in large, cost-effective batches. A time limit on treatment of SWPM would likely encourage a higher level of noncompliance by exporters, and that, in turn, would result in increased risk. However, to guard against reinfestation during the entire interval between treatment and export, the SWPM must be stored, handled, or safeguarded in a manner that excludes any infestation of it by plant pests.

**Q: What will APHIS do if a shipment containing SWPM from China arrives at a port in the United States and the SWPM is found to contain plant pests, or to otherwise not be in compliance with the interim rule?**

A: If a shipment containing SWPM from China arrives at a port in the United States and the SWPM is found to contain plant pests, or the SWPM has not been heat treated, fumigated, or treated with preservatives, or there is no accompanying certificate documenting such treatment, an APHIS inspector has authority to deny entry of the entire lot or shipment (cargo and SWPM).

Alternatively, the inspector may allow the importer to separate the cargo from the SWPM, at a location and within a time period specified by the inspector, and destroy or reexport the SWPM, if the inspector determines that this can be done without risk of spreading plant pests. This process will be done only in cases where there is a secure facility for separation of the cargo, available means to destroy the SWPM (incineration or chipping and incineration are the authorized methods), and available APHIS inspectors to supervise the process. The importer will be responsible for all expenses associated with this process.

**Q: What alternatives rather than the interim rule did APHIS consider?**

A: APHIS considered several alternatives in an effort to achieve the necessary control over the pest problems associated with SWPM from China, while imposing the minimum necessary adverse impacts on persons who will be affected by this rule.

APHIS attempted to set requirements that allowed exporters and importers to mitigate the risks associated with SWPM from China in a variety of ways. Exporters can use alternative nonregulated packing material or one of several treatment options for the packing material, or they can purchase pretreated packing material that is available from many sources. These options allow exporters and importers to make sound business decisions on the best way their particular enterprise could comply with the new requirements.

The major alternatives were (1) prohibiting the entry of SWPM from China, (2) requiring treatment and certification abroad of SWPM from China, (3) treatment either abroad or in the United States, and (4) taking no action (continuing the existing permitting process for SWPM). APHIS decided that the interim rule gave exporters and importers sufficient options on how to comply.

**Q: What are the costs of the treatments and inspections specified in the rule?**

A: The cost of treatment is hard to assess because it will all take place in China, so USDA will not have any figures until treatments actually begin. The treatments include kiln drying, fumigation, and application of preservatives prior to departure from China. The most likely fumigant is methyl bromide, but phosphene may be used instead. Preservatives in common use include arsenic, copper sulfate, creosote, and copper-8-quinolinate. APHIS is not establishing a time limit for treatment of SWPM, but to guard against reinfestation during the interval between treatment and export, the SWPM must be stored, handled, or safeguarded in a manner that excludes any infestation of it by plant pests.

APHIS will charge a new hourly user fee for providing PPQ services—primarily additional inspection services, and supervising separation of SWPM from cargo to facilitate the entry of SWPM—when the services exceed the normal inspection and paperwork activities for which user fees are currently established. The new user fee will cover situations where APHIS must inspect a shipment that lacks the exporter statement or certificate or where these documents are incomplete. The inspections will be necessary to determine whether the cargo contains SWPM, and if so, whether the cargo must be reexported or whether it can be safely separated from its SWPM.

When an inspector determines that a shipment imported from China contains SWPM that was not heat treated, fumigated, or treated with preservatives, or that was not accompanied by a certificate documenting such treatment, the inspector may, in lieu of refusing entry, allow the importer to separate the cargo and destroy or reexport the SWPM under supervision of an APHIS inspector. These services exceed those normally provided for arriving international shipments.

Normal services usually include reviewing paperwork to determine whether cargo contains prohibited or restricted articles, checking for any required permits or certificates, and occasional inspection to verify the status of cargo documented in the paperwork. These normal services are paid for by established user fees, currently \$454.50 for each arriving vessel of 100 tons or more and \$59.75 for each arriving commercial aircraft.

APHIS will charge hourly user fees for cases where inspectors must perform additional duties related to clearing shipments from China, as it would be difficult to establish a flat fee. Costs could vary widely from one customer to another, based on the nature and size of the shipment; consequently, a flat fee would be inequitable to some importers and exporters. The hourly user fee rate will be \$56.00, or

\$14 per quarter hour, with a \$14 minimum. If the services must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then the premium user fee rate as listed below applies, as well as the 2-hour minimum charge and a commuted travel time period. If the services requested are performed on a Sunday, the hourly user fee rate will be \$74.00, or \$18.50 per quarter hour, with an \$18.50 minimum. If the services requested are performed on a day other than Sunday outside the normal tour of duty of the employee providing the service, the hourly user fee rate will be \$65.00, or \$16.25 per quarter hour, with a \$16.25 minimum. This hourly rate user fee has been calculated to cover the full direct labor cost of providing that service.

APHIS will be forced to reassign inspectors from other areas to the ports that receive the bulk of imports from China to perform the additional inspections and other procedures required by this rule (e.g., checking whether cargo accompanied by an exporter statement truly contains no SWPM, supervising destruction or reexport of SWPM when that is required). It will be necessary to hire additional staff as well. The cost of reassigning this staff, hiring any additional staff, training them in the new procedures, and related costs is roughly estimated at \$2.7 million per year for APHIS.

**Q: Does China have the infrastructure to treat SWPM?**

A: There are sufficient fumigants available in world sources for China to conduct fumigation of SWPM. Kiln drying is also feasible. Kiln-drying facilities are not sophisticated structures and can be readily built and heated with energy from many sources. As long as the facility maintains a proper temperature for specified periods of time, the kilns are highly effective at all stages of the wood borer's life cycle. Please see appendix 2 for specific kiln-drying regimes. These regimes are also explained in the *Dry Kiln Operator's Manual*, available from the Government Printing Office.

**Q: How can APHIS be sure that China will comply?**

A: As with any regulation, there are no absolute guarantees of compliance. APHIS will continue to inspect Chinese shipments to ensure compliance with the regulation. APHIS will also conduct unannounced "blitzes" at high-risk ports. A blitz is an intense inspection of all cargo. Whenever necessary, APHIS will have the authority to require complete inspection of whole shipments. If rampant noncompliance is found, USDA will consider more restrictive measures. The United States is a \$72.8 billion consumer of Chinese products. Because the United

States is China's largest customer, APHIS believes that China will try to meet the requirements in the proposed regulation to prevent any interruptions in trade.

**Q: What kinds of penalties will APHIS impose when shipments do not comply with the rule's provisions?**

A: APHIS will issue warnings to first-time offenders. If offenders continue to violate the rule, APHIS will prosecute them. Under Federal law, APHIS can levy fines of up to \$1,000 per count. If APHIS finds that false documents are being submitted, the shipper may also face U.S. Customs penalties.

**Q: How will APHIS work with U.S. importers?**

A: As soon as the rule was published, APHIS held a stakeholder meeting. APHIS will also be conducting public meetings in Washington, DC, on October 16, 1998, and in Seattle, WA, and Long Beach, CA, on November 3 and 5, respectively. These meetings will give importers an opportunity to express comments on the interim rule. Comments can also be submitted by mail. APHIS will review these comments and work together with importers to address their concerns. More information on public meetings and submitting comments can be found later in this document.

**Q: How will APHIS work with the U.S. Customs Service to implement this rule?**

A: These two agencies already work in cooperation at U.S. ports to clear shipments from China for entry. This rule will require new documentation that will have to be examined as appropriate at the time of entry and will require selective additional inspections by both APHIS and Customs Service inspectors to verify that shipments comply with the regulations.

Additionally, APHIS expects to reassign inspectors from other areas to the ports that receive the bulk of imports from China to perform the additional inspections and other procedures required by this rule (e.g., checking whether cargo accompanied by an exporter statement truly contains no SWPM, supervising destruction or reexport of SWPM when it is required).

APHIS is working with the U.S. Customs Service to ensure the Automated Broker Interface of Customs' Automated Commercial System is minimally impacted by this rule.

**Q: What sort of studies did APHIS undertake to determine how to respond to the Asian longhorned beetle?**

A: Before proposing this interim rule, APHIS conducted studies and research to decide the best action to prevent wood-boring pests from entering the United States. APHIS conducted a pest risk assess-

ment, environmental assessment, and economic analysis prior to proposing the rule. These documents are available on the APHIS Website: <http://www.aphis.usda.gov>

APHIS PPQ recently completed a plant pest risk assessment that focuses on three taxa and one beetle intercepted on SWPM from China. The assessment provides scientific references and details on the biology of *Cerresium* spp., *Monochamus* spp., *Hesperophanes* spp., and the Asian longhorned beetle (*Anoplophora glabripennis*), as well as qualitative characterizations of the biological consequences and likelihood of introduction. The assessment is consistent with guidelines for conducting plant pest risk analyses provided by the International Plant Protection Convention of the United Nations Food and Agriculture Organization and the North American Plant Protection Organization. The assessment concluded that insects in each of these taxa constitute a significant and immediate threat to the United States.

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for the conclusion that the fumigation, heat treatment, or treatment with preservatives of SWPM imported from China will present a negligible risk of introducing or disseminating plant pests and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, APHIS' Administrator has determined that an environmental impact statement need not be prepared. The environmental assessment and finding of no significant impact were prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA, (3) USDA regulations implementing NEPA, (4) APHIS' NEPA implementing procedures, and (5) Executive Order 12114 of January 4, 1979, "Environmental Effects Abroad of Major Federal Actions."

**Q: Has APHIS been working with China on resolving the problem of infested SWPM?**

A: Prior to this rule's publication, USDA officials met with Chinese officials to discuss this problem. USDA is continuing to work with the Chinese on this serious problem. A USDA consultant will be traveling to China to assist the Chinese in complying with this new regulation. APHIS is also continuing to work with China on the scientific aspects of this issue. Researchers from the United States have been in China studying the Asian longhorned beetle. Leading entomologists are currently conducting studies on the pheromones of the Asian longhorned beetle. This research will be shared with Chinese scientists.

**Q: What is this pest's potential cost, including damages, to the United States?**

A: The Asian longhorned beetle is an expensive pest: it is estimated that by September 30, 1998, \$5 million had been spent on eradication efforts in the United States. If the Asian longhorned beetle and other wood-boring pests in the three named taxa were to become established in this country, they could cause up to \$41 billion in damages to many industries, including lumber, fruit, maple syrup, and tourism.

Damage and losses if additional plant pests associated with SWPM from China become established and spread in the United States would be substantial. For example, many species of hardwood trees would be destroyed, severely harming industries that depend on the wood and other products of these trees (e.g., maple syrup, maple sugar, fruit). Hardwood lumber industries would face critical supply shortages and would be forced to try to meet their needs with imported hardwoods. Mature ornamental trees would be attacked, and domestic supplies of trees for nursery and landscaping companies would be reduced or eliminated. Widespread destruction of hardwood trees in public and private forest land would occur, causing enormous direct losses in tourism and related industries and indirect losses to the aesthetics of our woodlands that cannot be easily measured.

**Q: What overall impact will this rule have on trade with China?**

A: China is the United States' fourth largest source for imported goods. Examples of some of the highest volume commodities likely to be shipped with SWPM include machinery, sports equipment, furniture, and optical and medical instruments. Shipments of these and other items using SWPM would be subject to the interim rule and thus could be refused entry if exporters are not in compliance with the regulation. In 1997, China's total exports of agricultural and nonagricultural products to the United States were valued at \$72.8 billion. Effects of the interim rule are hard to predict, but the rule is being implemented in such a way as to minimize any possible disruptions to trade. With such a large amount of trade at stake, it is expected that the Chinese will work toward compliance to protect the trade relationship.

**Q: When and where will APHIS hold public hearings on this issue?**

A: APHIS is holding three public meetings to accept oral comments on the proposed interim rule. On Oct. 16 in Washington DC, APHIS is hosting a public

meeting in Jefferson Auditorium, USDA South Building, 14th Street and Independence Avenue, S.W. Two other meetings will also be held: one in Seattle, WA, on Tuesday, November 3, at the Jackson Federal Building, North and South Auditorium, 4th floor, 915 Second Avenue, and the other in Long Beach, CA, on Thursday, November 5, at the Hyatt Regency Long Beach, Regency Ballroom ABC, 4th Floor, 200 South Pine Avenue.

All three meetings will begin at 9:00 a.m. local time and may run as late as 5:00 p.m. However, the meetings may be terminated at any time after they begin if all persons desiring to speak have been heard. If the number of speakers at the public meeting warrants, the presiding officer may limit the time for each presentation so that everyone wishing to speak has the opportunity.

**Q: What is the purpose of these public meetings?**

A: The purpose of the hearing is to give interested persons an opportunity for oral presentations of data, views, and arguments. Questions about the content of the interim rule may be part of the commenters' oral presentations but neither the presiding officer nor any other representative of APHIS will respond to comments at the hearings. However, they will be able to answer questions to clarify or explain provisions of the interim rule.

**Q: When will this interim rule take effect?**

A: This interim rule will take effect on December 17, 1998. This date refers to the date of export: any shipments in transit prior to December 17, 1998, are not covered by this interim rule.

For those interested in submitting comments on this rule, consideration will be given to comments received on or before Nov. 18, 1998. At the public meetings, APHIS asks that anyone who reads a statement provide two copies to the presiding officer at the hearing. For written comments, please send an original and three copies to Docket No. 98-087-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3CO3, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Comments can be reviewed at USDA, Room 1141, South Building, 14th Street and Independence Avenue, S.W., Washington DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to review comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.